

Since both of the Albert et al., and Maus et al. are the basis for rejection of claims 1-12 and Applicants invented the present invention prior to the effective filing dates of both references, both references must be removed from consideration. Accordingly since the Examiner has cited no other basis for rejection of claims 1-12, it is respectfully submitted that claims 1-12 are allowable over the art of record. It is noted that the Maus et al reference claims priority based on two provisional applications, and applicant invented the present invention prior to the filing date of the second of the two provisional applications. The Examiner has made no showing that the subject matter of the Maus et al reference that is being relied on is present in the earlier of the two provisional applications of Maus and accordingly, it is believed that Maus et al must be removed from consideration. In any event, the primary reference, Albert et al is clearly removed from consideration.

The Examiner is reminded that prosecution of this application has, to date, been piecemeal. Piecemeal prosecution is expressly prohibited by the M.P.E.P. In addition, the Examiner is reminded that it must be assumed that the Examiner's examination of the application is complete. Since no amendments are made to the claims, no new basis for rejection is presented. Applicant is entitled to rely upon the Examiner's search as being complete.

None of the claims in the application are shown, taught or made obvious by any of the references of record taken singly or in any combination.

It is respectfully submitted that the claims in the application are patentably distinct from all the references that have been cited or applied by the Examiner. At this time, it is respectfully submitted that further prosecution on the merits is no longer necessary nor required.

In view of the foregoing comments, it is believed that all the claims presently in the

INVENTOR: McBride et al  
TITLE: Internet Device Operation for Medical Testing

attorney docket: CARDIOBEAT-3

application are in condition for allowance. Reexamination and reconsideration are requested. It is further requested that the claims be allowed and that this application be passed to issue. An early notice of allowance would be appreciated.

Respectfully submitted,

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By:



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CERTIFICATE OF MAILING

I hereby certify that this document (and any as referred to as being attached or enclosed) is being mailed by Express Mail No. **ER741942011US** to the United States Patent and Trademark Office on **May 12, 2004**.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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